

# EXHIBIT F

1 UNITED STATES DISTRICT COURT  
1 SOUTHERN DISTRICT OF NEW YORK

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3 STEVEN W. SAMPSON,

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4 Plaintiff,

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5 v. 07 Civ. 6890 (PAC)

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6 JAMES D. ROBINSON, III, et al.,

6 Argument

7 Defendants.

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9 New York, N.Y.

9 April 9, 2008

10 3:10 p.m.

10 Before:

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11 HON. PAUL A. CROTTY

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12 District Judge

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14 APPEARANCES

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1 satisfy the particularity standard.

2 Reading from paragraph 143, you say, "Demand is  
3 excused because there is unlawful conduct that was not within  
4 the protection of the business judgment rule."

5 At 145 you say, "a sustained and systematic," I think  
6 you mean "systemic," "failure to manage and oversee the  
7 company's business."

8 146, "consciously and knowingly ignoring numerous red  
9 flags."

10 Pretty broad language. Where do you get more  
11 particular, Mr. Schmidt?

12 MR. SCHMIDT: Your Honor, we do include a lot of  
13 allegations, some of which are conclusory, but in our brief we  
14 have synthesized what are the particularized facts. Those are  
15 the facts that we discussed today. The overall environment in  
16 which this board was operating at the time of the Plavix  
17 lawsuit, the history of --

18 THE COURT: These pleadings have got to be accepted as  
19 true and complete, and normally they are not supplemented by  
20 your arguments in the briefs.

21 MR. SCHMIDT: No, your Honor.

22 THE COURT: Those are the pleading rules, right?

23 MR. SCHMIDT: Your Honor, the central theory of our  
24 case is essentially expressed in paragraphs 148 and 149. We  
25 have enough particularized facts, if you ignore the more

1 conclusorily pled facts, to satisfy the particularity  
2 requirement.

3 THE COURT: With regard to paragraph 148, what cases  
4 do you have specifically that say that these red flags should  
5 have alerted the board that it was obligated to actively  
6 participate in the negotiations and process leading to the  
7 execution of the revised a potential agreement? I've read most  
8 of the cases you've cited, but none of the cases that I can  
9 recall right now as I sit here say boards have an obligation to  
10 appoint their own counsel or to participate in negotiation. I  
11 haven't found that case. This may be the first one.

12 MR. SCHMIDT: Yes, your Honor. We haven't found any  
13 cases that say that is required, but there are no cases that  
14 say that it is not required, either. What the cases say is  
15 that if there is a propensity or evidence of possible wrong  
16 doing, the board has an affirmative duty to act, to intervene  
17 on behalf of the shareholders to prevent that from occurring.

18 How this board could have done that is not a matter of  
19 case law; it's a matter of logic and business judgment at the  
20 time.

21 THE COURT: If they had intervened, what would they  
22 have done differently?

23 MR. SCHMIDT: As I suggested earlier, your Honor, they  
24 could have appointed their own outside counsel.

25 THE COURT: Yes, I assume under your hypothetical they